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ACCEPTANCE OF THE UNIFORM FIDUCIARY ACCOUNTING PRINCIPLES IN THE UNITED STATES—THE RESULTS OF A NATIONWIDE SURVEY

by
Robert Whitman*

In an effort to unify fiduciary accounting principles in the United States, the National Fiduciary Accounting Project was established in 1972. The goal of the Project was to establish a set of Uniform Principles and Model Account Formats that can be used as one method of fiduciary accounting in any State that will permit fiduciary accounting in that manner.¹

By 1980, a set of Uniform Principles and Model Account Formats were agreed upon by representatives of the organizations sponsoring the Project.² Recently, the Project has come under the auspices of the Joint Editorial Board of the Uniform Probate Code.

While the advantages of a uniform system of fiduciary accounting throughout the United States have been clear for many years³

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¹ The Uniform Principles and Model Account Formats can be found in the ALI-ABA monograph *Fiduciary Accounting Guide* (Whitman, Brown and Kramer 1984).

² The organizations sponsoring the Project were: American Bar Association: Section of Real Property, Probate and Trust Law; American Bankers Association: Trust Division; American College of Probate Counsel, American Institute of Certified Public Accountants; National Center for State Courts; National College of Probate Judges; Uniform Probate Code Project.

³ As seen in the *Preface* to the Uniform Trustees' Accounting Act (withdrawn as obsolete in 1966) the need for a nationally uniform fiduciary accounting system was seen as early as 1936. *Preface*, Uniform Trustees' Accounting Act (1936)

The information which a beneficiary needs in order to guard against dishonesty or negligence is substantially the same in every state. Climate, social conditions, historical background, and similar elements do not affect this subject. What is good accounting for a *cestui que trust* in Florida would seem to be desirable for a beneficiary in Washington. Social customs and economic variations may make laws of descent and distribution unsuited to Maryland which are satisfactory to New

the recent availability of computer software packages⁴ have made the use of the uniform system particularly attractive. Although there have been informal indications that the uniform fiduciary accounting system has been accepted and is being used on a widespread basis throughout the United States, there has been a need to confirm which states accept the uniform fiduciary system and which states do not.

The recent survey which has been conducted⁵ and which is reported on herein, was designed to determine:

WHETHER THE UNIFORM FIDUCIARY ACCOUNTING SYSTEM IS ONE (BUT NOT NECESSARILY THE ONLY) ACCEPTABLE METHOD OF FIDUCIARY ACCOUNTING WITHIN EACH JURISDICTION OF THE UNITED STATES.

The results of the survey can be considered current as of August 1, 1987. Ten jurisdictions have not responded.⁶ The impressive results of the survey, as shown in Table A *infra*, indicate that 38 states from which responses were gathered will accept the Uniform

Mexico, but it is not believed that this factor operates with regard to the law of trust accountings. *Id.*

⁴ Some of the software systems now being used by many law firms include: 1. Probate Data Systems, Inc., 1926 Arch Street, Philadelphia, PA. 19103 (1-800-628-3232, 215-567-4800) *Attention*: Susan B. Laskin, Legal Systems Consultant; 2. "Easy" from Computer Decisions Corporation, 705 Mission Avenue, San Rafael, CA. 94901 (1-415-258-9590); 3. "PROBATE" by Computer-Based Legal Systems, Suite 300, Greeley National Plaza, Greeley, CO. 80631 (1-303-353-6700), and 4. "T.E.R.M." by BancCorp Systems, Box 15327, Amarillo, TX. 79105 (1-806-379-8655).

⁵ The survey was coordinated by Ms. Kimberly Arpaia, a third year student at the University of Connecticut Law School. Ms. Arpaia was assisted in conducting the survey by Ms. Sonjui Kumar, Ms. Carolyn Sullivan, and members of the Trust & Estates classes at the University of Connecticut Law School. The American College of Probate Counsel and the National College of Probate Judges also greatly assisted in the survey.

The survey was conducted by contacting attorneys and/or judges within each jurisdiction. There may be some degree of error in the survey due to the fact that practice can vary within a particular jurisdiction from court to court, or county to county.

In the future, the author hopes to conduct further surveys in order to correct any errors, survey the remaining states that have not responded and periodically update findings. In order to help complete the survey, correspondence from any interested person regarding information on the acceptance of the National Fiduciary Accounting Project in any jurisdiction should be directed to: Professor Robert Whitman, University of Connecticut School of Law, 65 Elizabeth Street, Hartford, Connecticut 06105-2290 (203) 241-4670.

⁶ The jurisdictions which have not responded are: Florida, Illinois, Maine, Massachusetts, Mississippi, Nevada, New Hampshire, Utah, Vermont and Wyoming.

Fiduciary Accounting System as one acceptable method of fiduciary accounting within the jurisdiction. The jurisdictions of Ohio, New York, and Washington, D.C. will not accept the Uniform Fiduciary Accounting Principles as one method of accounting within the jurisdiction. Details on the sources on which the survey is based will be found in the notes to Table A which follow.

TABLE A

**JURISDICTIONS THAT WILL ACCEPT THE
UNIFORM FIDUCIARY ACCOUNTING PRINCIPLES
AS ONE METHOD OF ACCOUNTING WITHIN THE
JURISDICTION**

Alabama	Kansas	Oklahoma
Alaska	Kentucky	Oregon
Arizona	Louisiana	Pennsylvania
Arkansas	Maryland	Rhode Island
California	Michigan	South Carolina
Colorado	Minnesota	South Dakota
Connecticut	Missouri	Tennessee
Delaware	Montana	Texas
Georgia	Nebraska	Virginia
Hawaii	New Jersey	Washington
Idaho	New Mexico	West Virginia
Indiana	North Carolina	Wisconsin
Iowa	North Dakota	

NOTES TO TABLE A

**INFORMATION RECEIVED THAT SUGGESTS STATE WILL ACCEPT (OR
WILL NOT ACCEPT) THE UNIFORM FIDUCIARY ACCOUNTING
PRINCIPLES AS ONE METHOD OF ACCOUNTING WITHIN THE
JURISDICTION**

Alabama:

Bruce A. Rawls, Burr & Forman, Birmingham, Alabama:

“ . . . I feel certain that our courts would accept a fiduciary accounting that is prepared in conformity with uniform principles and model account formats.”

Alaska:

Trigg T. Davis, Davis & Goerig, Anchorage, Alaska:

"I am quite certain the fiduciary accountings prepared in accordance with those standards would be acceptable in the State of Alaska."

Arizona:

Joyce A. Kruczek, Snell & Wilmer, Phoenix, Arizona:

"In Maricopa County, Arizona, the National Project's model account formats are acceptable. Pima County, however, presently [sic] only accepts its form which was prepared by the Pima County Bar Association and which is broadly similar to the national accounting format. . . Other counties have no full time probate judges, but our best guess is that the uniform forms would be acceptable."

Arkansas:

William D. Haught, Wright, Lindsey & Jennings, Little Rock, Arkansas:

"I believe that an accounting prepared in conformity with the principals of the National Fiduciary Accounting Standards would be acceptable...."

California:

Ronald E. Gother, Gibson, Dunn & Crutcher, Los Angeles, California:

". . .I see no reason why any of our courts would refuse to accept an accounting following this model form."

Connecticut:

Robert T. Gilhuly, Cummings & Lockwood, Greenwich, Connecticut:

". . .[I]t is my view that Connecticut Probate Courts would accept an account prepared in accordance with the Uniform Principals and Model Account Formats although it might be necessary to require the accountant to balance debits and credits."

Delaware:

Joseph H. Geoghegan, Potter, Anderson & Corroon, Wilmington, Delaware:

"In my opinion, a fiduciary accounting prepared in conformity with the Uniform Fiduciary Accounting Principles and Model Account Formats (1984) would be accepted by the Delaware Court of Chancery as *one method* of fiduciary accounting."

Georgia:

The Honorable Floyd E. Propst:

"The Fiduciary Accounting Standards are acceptable in Georgia."

Hawaii:

Robert G. Hite, Goodsill, Anderson, Quinn & Stifel, Honolulu, Hawaii:

"[I]t is my opinion that the courts of Hawaii would accept a fiduciary accounting prepared in conformity with the uniform principles and model account formats."

Idaho:

Archie W. Service, Pocatello, Idaho:

He is sure that the courts would accept the Uniform Principles and accept the Uniform Principles and Model Account Formats (relayed by Barbara Blechner of West Hartford, Connecticut).

Indiana:

Benton E. Gates, Jr., State Chairman for Indiana of the American College of Probate Counsel:

"[I]t contains all of the elements presently required and accepted by the courts. In other words, I see no reason why courts would not accept an accounting prepared following this format."

Iowa:

Robert C. Reimer, Iowa Chairman for the American College of Probate Counsel:

". . . I have no question but that any court in the State of Iowa would accept a fiduciary accounting prepared in conformity with the proposed uniform principles as one method of accounting."

Kansas:

Joseph S. Davis, Jr., Kansas State Chairman for the American College of Probate Counsel:

"The accountings contemplated by the Uniform Fiduciary Accounting Standards . . . , in my opinion, would be acceptable by all of the courts."

Kentucky:

Frank Gofton Ware, Florence, Kentucky:

"[T]hey would be acceptable."

Louisiana:

Robert Lee Curry, III, Theus, Grisham, Davis and Leigh, Monroe, Louisiana:

"[F]iduciary accountings prepared in conformity with the uniform principles and model account formats set forth in the National Fiduciary Accounting Standards would be accepted by the Louisiana courts. . . ,

Maryland:

Robert A. Gingell, Silver Spring, Maryland:

The Maryland courts will accept a fiduciary accounting prepared in conformity with the uniform principles. (As relayed by Matthew Gordon, Manchester, Connecticut).

Michigan:

George A. Cooney, Cooney and Cooney, Detroit, Michigan:

An accounting pursuant to UPC criteria is acceptable in Michigan. (As relayed by Peter

Young, Connecticut).

Minnesota:

Lehan J. Ryan, Oppenheimer, Wolff & Donnelly, St. Paul, MN:

"I believe the courts in the State of Minnesota would accept a fiduciary accounting prepared in conformity with the uniform principles and model account format...."

Missouri:

P. Pierre Dominique, Jefferson, Missouri:

"We find . . . that the probate courts uniformly stated that settlements in accordance with these standards would be quite acceptable."

Montana:

James W. Johnson, Warden, Christiansen, Johnson & Berg, Kalispell, Montana:

"[I]t is my opinion, that without a doubt, any fiduciary accounting prepared in conformity with the uniform principles . . . would be acceptable and most likely accepted by any district court in Montana."

Nebraska:

Alfred G. Ellick, Ellick & Jones, State Chairman, American College of Probate Counsel, Nebraska:

"The answer to your question, as far as I am aware, is yes."

New Jersey:

Kevin M. Wolfe, Deputy Surrogate, Mercer County Surrogate's Court, Trenton, New Jersey:

"I find no substantial conflict with our Court Rule 4:87-2 (form of Account, Statement of Assets to be Annexed to Account), our accounting practice, and the model format. Our Court Rules would require additional schedules, but if attached to an account formatted as in the brochure, I would have no difficulty auditing it."

New Mexico:

W. Garret Flickinger, Professor of Law at the University of New Mexico:

"I think it is safe to say that an accounting prepared in accordance with the uniform principles would be acceptable."

New York:

New York will not accept the Uniform Principles and Model Account Formats. (Reported by Robert Whitman).

North Carolina:

Robert B. Lloyd, Jr., North Carolina State Chairman:

". . . I can advise you, as a general matter, that most of the Clerks of Superior Court in the 100 counties of North Carolina will accept a fiduciary accounting prepared in conformity

with the uniform principles and model account formats that are recommended by the National Fiduciary Accounting Standard Procedures.”

North Dakota:

John Michael Nilles, Nilles, Hansen & Davies, LTD:

“I believe that the account formats . . . would be acceptable in North Dakota courts.”

Ohio:

Judge R.R. Denney Klunk, Probate Court of Starr, County, Ohio:

The uniform principles and model account format are not acceptable in his court (as relayed by Stacey Moody, Connecticut).

Oklahoma:

Allen D. Evans, Crowe & Dunlevy, Oklahoma City, Oklahoma:

“. . . a brief review of the uniform Fiduciary Accounting Principals would indicate that they would be acceptable in our state.”

Oregon:

George M. Jenks, Jenks & Weinstein, P.C., Portland, Oregon:

“Based on my experience, it is my opinion that the courts would readily accept an accounting that followed the Model Account Format.”

Pennsylvania:

Pennsylvania has formally approved the Uniform Principles and Model Account Formats for use in its courts. Pennsylvania Supreme Court Orphans' Court Rule 6.1.

“The Uniform Fiduciary Accounting Principles . . . are approved as an elaboration of the requirements of this rule.”

Rhode Island:

Mary Louise Dennedy, Edwards & Angell, Providence, Rhode Island:

“. . . an account prepared in conformity with the uniform standards would in all probability be acceptable to the Superior Court.”

South Carolina:

A. L. Moses, Sherrill & Townsend, Columbia, South Carolina:

“. . . indications are that such accountings prepared in accordance with the National Fiduciary Accounting Standards will be acceptable in the probate courts of South Carolina.” (as advised by Lois Weist, the assistant to the deputy director for probate courts).

South Dakota:

Irving A. Hunderiker, South Dakota State Chairman, the American College of Probate Counsel. “[T]he courts in South Dakota will accept a fiduciary accounting prepared in conformity with The Uniform Fiduciary Accounting Principles and Model Account Formats.”

Tennessee:

Albert W. Secor, Tennessee Chairman of the American College of Probate Counsel:

"Based on my experience, the format of the Uniform Fiduciary Accounting Principles and Model Account Formats would be acceptable in all the counties in Tennessee."

Texas:

Durant F. Clements, Clay & Clements, Inc., Bridgeport, Texas:

". . . I feel sure that an accounting in accordance with the National Project would be accepted."

Virginia:

Munford R. Yates, Jr., Fairfax, Virginia:

". . . an accounting prepared in accordance with your format would be acceptable by the Commissioner of Accounts and the courts here in Fairfax County, VA."

Washington, D.C.:

Nicholas D. Ward, Muir & Ward, Washington, D.C.:

"The District of Columbia Superior Court would not accept accounts except as prepared on the Court's forms."

State of Washington:

Alan H. Kane, Washington State American College of Probate Counsel Chairman:

"I feel confident the answer in Washington State is yes."

West Virginia:

Milton T. Herndon, Chairman, West Virginia State Bar Probate Committee, Campbell, Woods, Bagley, Emerson, McNeer & Herndon, Charleston, West Virginia:

Mr. Herndon reports that he believes that the answer in West Virginia is "yes."

Wisconsin:

Arthur F. Lubke, Jr., Reinhard, Boerner, Van Deuren, Norris & Rieselbach, Milwaukee, Wisconsin:

"My experience is that all probate judges are willing to accept these . . . forms so long as the printed Final Account cover sheet is attached."

Based on the survey it is clear that the Uniform Fiduciary Accounting System has become the established method of fiduciary accounting in the United States.